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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/897,292	06/29/2001	Gerald I. Cohen	COHE0002	1998

25268 7590 03/30/2006

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EXAMINER

VAUGHN, GREGORY J

ART UNIT PAPER NUMBER

2178

DATE MAILED: 03/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Interview Summary	Application No.	Applicant(s)	
	09/897,292	COHEN, GERALD I.	
	Examiner	Art Unit	
	Gregory J. Vaughn	2178	

All participants (applicant, applicant's representative, PTO personnel):

(1) Gregory J. Vaughn. (3) _____

(2) Michael C. King (applicant's representative). (4) _____

Date of Interview: 28 March 2006.

Type: a) ☒ Telephonic b) ☐ Video Conference
c) ☐ Personal [copy given to: 1) ☐ applicant 2) ☐ applicant's representative]

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☒ No.
If Yes, brief description: _____

Claim(s) discussed: 40 and 57.

Identification of prior art discussed: McNally et al., US Patent 6,384,850.

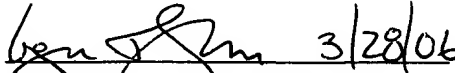
Agreement with respect to the claims f) ☐ was reached. g) ☒ was not reached. h) ☐ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: See Continuation Sheet.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN A NON-EXTENDABLE PERIOD OF THE LONGER OF ONE MONTH OR THIRTY DAYS FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.

 3/28/06
Examiner's signature, if required

Summary of Record of Interview Requirements

Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews

Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

37 CFR §1.2 Business to be transacted in writing.

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner,
(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.

Continuation of Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: Examiner and applicant discussed the merits of the claimed invention with respect to the cited prior art of record. The applicant indicated that the limitations added in the amendment filed on 10/20/2005 were not new matter. The examiner indicated that the new matter rejections would be withdrawn if applicant would indicate were to find support for the matter in the originally filed disclosure. Regarding the novelty rejections made in view of the cited prior art of record, no agreement with respect to the claims has been reached.

LAW OFFICES OF
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FACSIMILE COVER SHEETDate: March 28, 2006

To: Examiner Gregory Vaughn
USPTO

Facsimile No.: 1-571-273-4131

US Serial No. 09/897,292

Filing Date June 29, 2001

Attorney Docket No. COHE0002

From: Michael C. King, Registration No. 44,832
Facsimile No. (425) 646-6314

MESSAGE:

The following has been transmitted herewith via facsimile:

1. Facsimile Cover Page (1pg).
2. PTOL-413A (2pages)

The information contained in this facsimile message is privileged and confidential information intended only for the use of the recipient named above. If the reader of this message is not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, any distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone and return the original message to us at the above address by mail.

We have 3 pages to send, including this sheet. If any pages need to be retransmitted,
please call (425) 688-8816 within 15 minutes.

Applicant Initiated Interview Request Form

Application No.: 09/897,292 First Named Applicant: GERALD CONEN
 Examiner: VAUGHN Art Unit: 2/78 Status of Application: PENDING, FINAL
OFFICE ACTION

Tentative Participants:

(1) GREGORY VAUGHN (EXAMINER) (2) MICHAEL KING (APPLICANT'S ATTORNEY)

(3) _____ (4) _____

Proposed Date of Interview: 3/28/06 Proposed Time: 2:00 (AM/PM) (PM)

Type of Interview Requested:

(1) ☒ Telephonic (2) ☐ Personal (3) ☐ Video Conference

Exhibit To Be Shown or Demonstrated: ☐ YES ☒ NO

If yes, provide brief description: _____

Issues To Be Discussed

Issues (Rej., Obj., etc)	Claims/ Fig. #s	Prior Art	Discussed	Agreed	Not Agreed
(1) <u>102</u>	<u>40</u>	<u>Art McNALLY</u> <u>6384850</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(2) <u>112</u>	<u>57</u>	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(3) _____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(4) _____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Continuation Sheet Attached					

Brief Description of Arguments to be Presented:

SEE ATTACHED

An interview was conducted on the above-identified application on _____.

NOTE: This form should be completed by applicant and submitted to the examiner in advance of the interview (see MPEP § 713.01).

This application will not be delayed from issue because of applicant's failure to submit a written record of this interview. Therefore, applicant is advised to file a statement of the substance of this interview (37 CFR 1.133(b)) as soon as possible.

Applicant/Applicant's Representative Signature

MICHAEL C. KING

Examiner/SPE Signature

Typed/Printed Name of Applicant or Representative

HH, 832

Registration Number, if applicable

This collection of information is required by 37 CFR 1.133. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 21 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

With respect to McNally (6,384,850), it appears that development and generation of a menu based on McNally's disclosure is distinguishable over the claimed method, even though the reference includes language similar to that in the pending claims.

As applicant understands McNally, a user can access a template (FIGURE 7), a processor, database records corresponding to potential menu items (i.e., the entrée, dessert, and appetizer data that are displayed in FIGURE 1), and modifiers (i.e., meat temperature, and vegetables to be served with an entrée) to initially generate a menu that is stored, such that a user can later retrieve that menu for use. Once the menu has been prepared, it appears that the menu is stored *in its complete form*.

Significantly, these two steps appear distinctly different those implemented by McNally:

- (b) *enabling a user to select a desired menu from the menu database;*
- (c) *using said menu template modifier, said menu template, and a database record to generate the desired menu, said database record defining an appearance and a functionality of the menu items included within the desired menu;*

Note in step "b", the desired menu *has already been developed*, and stored as an instruction set (i.e., as database record) as opposed to a complete menu. Should additional language be required to make this point clear, such language can be discussed. However, from a purely logical point of view, if the menu had not yet been created it could not be selected!

Once the already developed menu has been selected, the database record corresponding to the desired menu is accessed to enable the menu to be regenerated for display to a user. Note the database record defines the appearance and functionality of menu items in the desired menu. There does not appear to be any basis for concluding that McNally uses the menu template modifier or menu template *after* a menu has been created. Nor does McNally appear to teach that the limitation of a *database record defining an appearance and a functionality of the menu items included within the desired menu*.

With respect to the 112 rejections, applicant does not understand the Examiner's basis for the rejection, with the possible exception of the limitation in the preamble (which is shown in the drawings). The concepts recited in Claim 57 are fully consistent with the specification and drawings as filed.